

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Inventor:	Jun HIRANO et al.	Art Unit 2617
Appln. No.:	10/550,529	Exr. O. Obayanju
Filed:	July 12, 2006	Conf. No. 4475
For:	RADIO COMMUNICATION METHOD AND RADIO COMMUNICATION DEVICE	

SUMMARY OF SUBSTANCE OF TELEPHONE INTERVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

It is noted that a new Office Action has been issued on November 9, 2010, with a new response period in place of the previous Office Action dated August 17, 2010.

The Applicants wish to thank the Examiners for the courtesy shown to their attorney during a telephone interview on November 4, 2010. The participants were Examiner Obayanju, Primary Examiner Santiago, and the Applicants' representative, Douglas Agopsowicz, Reg. No. 56,792. The following includes a summary of the substance of the interview. Agreement was reached that a supplemental Office Action would be mailed.

During the interview, the discussion focused on the rejections of claims 50-60 made in the Office Action mailed August 17, 2010, and particularly on the rejection of independent claim 50. The prior art references Haartsen (US Publication No. 20020126692), Montano et al. (US Patent No. 7280518) and Chuah (US Publication No. 20030214928) were discussed. Claims 50,

51, and 53-60 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Haartsen in view of Montano and Chuah. Claim 52 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Haartsen in view of Montano and Chuah and further in view of Le et al. (US Patent No. 7154877).

The Applicants' representative noted that the Office Action failed to respond to the Applicants' "teaching away"/ "motivation to combine" arguments set forth at pages 11-12 of the Amendment filed on May 18, 2010. The Applicant's representative further noted that, under MPEP 706 and 707.07(f), "an examiner must provide clear explanations of all actions taken by the examiner during prosecution of an application," and "[w]here the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it."

The Applicants' representative also argued during the interview that the prior art reference Haartsen teaches away from the prior art references Montano and Chuah, and that the rejections should be withdrawn for this reason. The Applicants' representative emphasized that Haartsen, which discloses a system that controls access to a communication channel using a "pseudo-token," expressly teaches away from Montano and Chuah, which make general references to dividing time slots. Specifically, the Applicants' representative explained that Haartsen teaches using the "pseudo-token" to ensure that only one communication unit is transmitting on a channel at a given time, while Montano and Chuah teach dividing time slots to perform contention resolution when multiple communication units are communicating. The Applicants' representative further pointed out that Haartsen explicitly teaches that "only one unit is allowed to transmit at a given time" (par. [0027]) and "[a]ll other units are prohibited from transmitting during unit A's reserved slots" (par. [0036]), which teaches away from Montano's

disclosure that “MTSs [Management Time Slots] can also be shared among multiple devices 321-325” (col. 16, lines 2-3). The Applicants’ representative further explained that modifying Haartsen to divide time slots into sub-slots, as disclosed by Montano and Chuah, would only result in the other subslots being unused, which is inefficient and wasteful.

The Applicants’ representative further noted that even if, for sake of argument, it was assumed that Haartsen did not expressly teach away from Montano and Chuah, one skilled in the art still would not have been motivated to combine Haartsen with Montano to arrive at the Applicants’ claimed invention. Specifically, the Applicants’ representative explained that, to combine prior art references under 35 U.S.C. § 103(a), the motivation to combine must have a reasonable expectation of success (MPEP 2143.02), and that in this case, combining the pseudo-token scheme of Haartsen with the time division of Haartsen would not have a reasonable expectation of success. The Applicants’ representative noted that, in this case, the Examiner’s stated motivation to combine Haartsen with Montano “...to prevent or avoid signal or data collision in the channel” (Office Action, pg. 5) is not reasonable, because Haartsen’s pseudo-token prevents multiple communication units from transmitting in the same channel at the same time, so there would be no need to modify Haartsen to “prevent or avoid signal or data collision in the channel” using the time division disclosed by Montano and Chuah, because Haartsen clearly disclosed that only one communication unit could transmit on a channel at a given time in the first place. The Applicants’ representative further pointed out that every embodiment of Haartsen disclosed this feature, and explained that modifying Haartsen to incorporate “time division” would be wasteful and inefficient, and have no reasonable expectation of success.

No agreement was reached regarding patentability, although the Examiners did suggest that the arguments advanced by the Applicants’ representative during the interview could be set

forth in a future written response, and that the Examiners would consider the arguments in deciding whether to allow the case.

If any issues remain which may best be resolved through a telephone communication, the examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,

/James Edward Ledbetter/

Date: November 16, 2010
JEL/DEA/att

James E. Ledbetter
Registration No. 28,732

Attorney Docket No. 008638-05108
Dickinson Wright PLLC
1875 Eye Street, NW, Suite 1200
Washington, DC 20006
Telephone: (202) 457-0160
Fax: (202) 659-1559

DC 8638-5108 163612